

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JUDITH B. MEMBLATT,

Plaintiff,

**NOTICE OF MOTION
05 CV 1021 (SLT)-(LB)**

-against-

Pro Se

JAIME A. RIOS, et al.,

Defendants.
-----X

PLEASE TAKE NOTICE that upon the annexed request to the Clerk of the Court to enter the default of defendant Lauren DeSole, the affidavit of Judith B. Memblatt sworn to on May 9, 2005, the affidavit of service of Shirley Memblatt sworn to on April 8, 2005, and upon the complaint herein, plaintiff will move this Court, Hon. Raymond J. Dearie, U.S.D.J., in Room ____, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201, on the 2nd day of June, 2005 at 9:30 a.m. or as soon thereafter as the parties can be heard, for an order pursuant to Rule 55 of the Federal Rules of Civil Procedure granting the entry of a default judgment against defendant Lauren DeSole herein, as well as such other and further relief as to the Court seems just and proper.

Dated: Queens, New York
May 11, 2005

By: 

JUDITH B. MEMBLATT
Plaintiff Pro Se
98-51 65th Avenue #2A
Rego Park, NY 11374

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PRO SE OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JUDITH B. MEMBLATT,

Plaintiff,

**REQUEST TO ENTER DEFAULT
05 CV 1021 (SLT) (LB)**

-against-

Pro Se


JAIME A. RIOS, et al.,

Defendants.
-----X

TO: ROBERT C. HEINEMANN, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Please enter default of defendant LAUREN DeSOLE pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned action as fully appears from the court file herein, the attached affidavit of Judith B. Memblatt and the attached affidavit of service of Shirley Memblatt.

Dated: Queens, New York
May 9, 2005

By: 
JUDITH B. MEMBLATT
Plaintiff Pro Se
98-51 65th Avenue #2A
Rego Park, NY 11374

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JUDITH B. MEMBLATT,

Plaintiff,

-against-

**NOTATION OF DEFAULT
05 CV 1021 (SLT) (LB)**

Pro Se

JAIME A. RIOS, et al.,

Defendants.
-----X

I, Robert C. Heinemann, Clerk of Court of the United States District Court for the Eastern District of New York, do hereby certify that defendant LAUREN DeSOLE has not filed an answer or otherwise moved with respect to the complaint herein. The default of defendant LAUREN DeSOLE is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: Brooklyn, New York
 , 2005

ROBERT C. HEINEMANN
Clerk of Court

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JUDITH B. MEMBLATT,

Plaintiff,

**DEFAULT JUDGMENT
05 CV 1021 (SLT) (LB)**

-against-

Pro Se

JAIME A. RIOS, et al.,

Defendants.
-----X

The summons and complaint in this action having been duly served on defendant Lauren DeSole by service completed on April 8, 2005 and said defendant having failed to plead or otherwise defend in this action, and said default having been duly noted, and upon the annexed declaration of default judgment.

NOW, on motion of Judith B. Memblatt, the plaintiff *pro se* herein, it is hereby

ORDERED and ADJUDGED that Judith B. Memblatt, the plaintiff, does recover of defendant Lauren DeSole, whose actual place of business is the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004, the sum of \$10,000,000 (ten million dollars), the amount claimed, with \$432 (four hundred thirty-two dollars) costs and disbursements, in all to the sum of \$10,000,432 (ten million four hundred thirty-two dollars), plus interest at the legal rate in effect on the date of this judgment; that said defendant is jointly and severally liable for said sum; and, that the plaintiff have execution therefor.

Dated: Brooklyn, New York
 , 2005

By: _____

District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JUDITH B. MEMBLATT,

Plaintiff,

**AFFIDAVIT IN SUPPORT
OF DEFAULT JUDGMENT
05 CV 1021 (SLT) (LB)**

Pro Se

-against-

JAIME A. RIOS, et al.,

Defendants.
-----X

Judith B. Memblatt, being duly sworn, deposes and says:

1. I am the plaintiff *pro se* in this action. Based upon the following, it is hereby requested that judgment be entered in favor of plaintiff and against defendant Lauren DeSole in the amount stated herein, and that the court grant to plaintiff such other and further relief as to the court seems just and proper.

2. This action was commenced pursuant to 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and the laws and Constitution of the State of New York.

3. On April 5, 2005 at 12:17 p.m. at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004, service of the summons and complaint herein, together with the Order of United States Magistrate Judge Lois Bloom, dated March 4, 2005, and individual practices of Magistrate Judge Lois Bloom, was made on defendant Lauren DeSole by Shirley Memblatt who delivered a true copy of each said document to an individual who identified herself as Shawn Kirby, an Assistant Deputy Counsel employed at said premises. Ms. Kirby, a person of suitable age and discretion, stated that she was authorized to accept service of said papers for

defendant Lauren DeSole. When she accepted service of said papers, Ms. Kirby stamped the first page of a copy of the order of Magistrate Judge Bloom and also stamped the back of a copy of the summons. Additional copies of the summons and complaint herein, together with the Order of United States Magistrate Judge Lois Bloom, dated March 4, 2005, and individual practices of Magistrate Judge Lois Bloom were mailed to defendant Lauren DeSole at the same address on April 8, 2005. Copies of the papers that Ms. Kirby stamped are annexed as "Exhibit A" hereto, as is a stamped copy of the aforementioned affidavit of service regarding said defendant, which was filed on April 8, 2005.

4. In a letter to the Court dated April 19, 2005, Assistant Attorney General Constantine A. Speres stated that his office represents six defendants herein and, "anticipates representing the Honorable Jonathan Lippman and Lauren DeSole once they are served and have requested representation."

5. In a letter to Mr. Speres, dated April 26, 2005, plaintiff notified him that defendant Lauren DeSole already had been served with process as described in the aforementioned affidavit of service. In that letter, plaintiff also stated that, in order to avoid possible unnecessary motion practice, Mr. Speres should inform plaintiff in writing within five days of his receipt of said letter, if the NYS Attorney General's Office actually did represent defendant DeSole in this action. Additionally, plaintiff stated therein that, in the event that he did not so advise plaintiff, a motion for a default judgment would be made as against defendant DeSole, as permitted by law, in the event that said defendant neither responded to the complaint within the time provided in the summons nor sought any extensions of time to do so. Said letter was delivered to

Mr. Speres via fax transmission on April 26, 2005. The original was mailed to him by ordinary mail on the same date. Copies of said letter, the fax cover sheet and proof of the fax transmission are annexed as "Exhibit B" hereto.

6. Plaintiff has not received any response to the aforementioned letter to Assistant Attorney General Speres.

7. The time within which defendant Lauren DeSole may answer or otherwise move with respect to the complaint has expired, said defendant has not answered or otherwise moved with respect to the complaint, and the time for this defendant to do so has not been extended.

8. Defendant Lauren DeSole is not an infant or an incompetent. Upon information and belief, said defendant is not presently in the military service of the United States.

9. Plaintiff has suffered damages as set forth in the complaint, by which plaintiff demands that defendant Lauren DeSole be held jointly and severally liable to plaintiff for compensatory damages in the amount of \$5,000,000 (five million dollars) and punitive damages in the amount of \$5,000,000 (five million dollars) for the total sum of \$10,000,000 (ten million dollars) together with costs and interest. A copy of the complaint is annexed as "Exhibit C" hereto.

10. The costs incurred by plaintiff to date include the sum of \$432 (four hundred thirty-two dollars) which consists of the amount of \$250 (two hundred fifty dollars) for filing this action, as well as the amount of \$182 (one hundred eighty-two dollars) for the twenty-seven copies of the summons and complaint which were required for filing the instant action and serving the summons and complaint upon all of the

defendants herein.

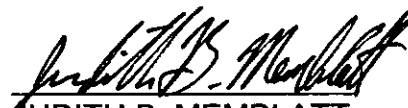
Wherefore, plaintiff requests a judgment on each cause of action against defendant Lauren DeSole.

Wherefore, plaintiff requests that the default of defendant Lauren DeSole be noted and that judgment be entered in favor of plaintiff and against defendant Lauren DeSole in the amount stated herein.

Plaintiff declares under penalty of perjury that the foregoing is true and accurate to the best of plaintiff's knowledge, information and belief; that the amount claimed is justly due and owing based upon the damages suffered by plaintiff as set forth in the complaint; that no part of the amount claimed has been paid; and, that the costs sought to be taxed have been incurred and paid in connection with this action.

Dated: Queens, New York
May 9, 2005

By:


JUDITH B. MEMBLATT
Plaintiff Pro Se
98-51 65th Avenue #2A
Rego Park, NY 11374

Sworn to before me this
9th day of May 2005


Notary Public

MIKHAIL IBRAGIMOV
NOTARY PUBLIC, State of New York
01B6098295, Queens County
Expires September 8, 2007

Ex. A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUDITH B. MEMBLATT,

Plaintiff,

-against-

JAIME A. RIOS, et al.

Defendants.

Affidavit of Service
05 CV 1021 (RJD) (LB)Pro Se

SHIRLEY MEMBLATT, BEING DULY SWORN, DEPOSES AND SAYS THAT DEPONENT IS NOT A PARTY TO THIS ACTION, IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK, and further deposes and says that on April 5, 2005 at 12:17 P.M. at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 deponent served the within SUMMONS AND COMPLAINT, together with the within ORDER OF UNITED STATES MAGISTRATE JUDGE LOIS BLOOM, DATED MARCH 4, 2005, AND INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE LOIS BLOOM, upon LAUREN DeSOLE therein named by delivering thereat a true copy of each to SHAWN KIRBY, who is a person of suitable age and discretion and is employed thereat as an Assistant Deputy Counsel. Said premises is this defendant's actual place of business.

Deponent additionally states that she describes SHAWN KIRBY who was actually served, as follows:

<u>Sex:</u> Female	<u>Skin Color:</u> White	<u>Hair Color:</u> Auburn
<u>Age (Approx.):</u> 35	<u>Height (Approx.):</u> 5'4	<u>Weight (Approx.):</u> 103

Deponent further states that deponent enclosed a true copy of same in a post-paid wrapper properly addressed to the defendant at the defendant's actual place of business at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 and deposited said wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service within New York State on April 8, 2005 by REGULAR FIRST CLASS MAIL in an envelope bearing the legend "PERSONAL AND CONFIDENTIAL", with no return address.

The defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act,

Shirley Memblatt
SHIRLEY MEMBLATT
98-51 65th Avenue #2A
Rego Park, NY 11374

Sworn to before me this
8th day of April 2005

Judith B. Memblatt
Notary Public

JUDITH B. MEMBLATT
Notary Public, State of New York
No. 0085232327
Qualified in Queens County
Commission Expires 07/20/2006

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APR 08 2005

PRO SE OFFICE

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COUNSEL'S OFFICE
OFFICE OF CT. ADMIN.

'05 APR -5 P12:17

United States District Court

Eastern District of New York

JUDITH B. MEMBLATT

SUMMONS IN A CIVIL CASE

JAIME A. RIOS, Associate Justice, Appellate Term, Supreme Court, State of New York, 2nd and 11th Judicial Districts, STEVEN W. FISHER, Associate Justice, Appellate Division, Supreme Court, State of New York, 2nd Department, JONATHAN LIPPMAN, Chief Administrative Judge of the Courts of the State of New York, LAUREN DeSOLE, Director of the Division of Human Resources, New York State Unified Court System, Office of Court Administration, ANTHONY D'ANGELIS, Chief Clerk, Supreme Court, State of New York, Queens County, ROBERT W. GARDNER, Major of Officers, Supreme Court, State of New York, SANDRA NEWSOME, Secretary to Judge, Supreme Court, State of New York, HEIDI HIGGINS, Secretary to Judge, Supreme Court, State of New York, KAREN KOSLOWITZ, Deputy Borough President, County of Queens, City of New York, THOMAS J. MANTON, GERARD J. SWEENEY and MICHAEL H. REICH,

CASE NUMBER:

05 1021**TOWNES, J.****BLOOM, M.J.**

TO: (Name and address of defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

PRO SE: JUDITH B. MEMBLATT

98-51 65TH AVENUE


APT. # 2-A

REGO PARK, NY 11374

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

ROBERT C. HEINEMANN

CLERK



(BY) DEPUTY CLERK

February 24, 2005

DATE

MAR 07 2005

P.M.
TIME A.M.UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUDITH B. MEMBLATT,

Plaintiff,

- against -

JAMIE A. RIOS, Associate Justice, Appellate Term, Supreme Court, State of New York, 2nd and 11th Judicial Districts; STEVEN W. FISCHER, Associate Justice, Appellate Division, Supreme Court, State of New York, 2nd Department; JONATHAN LIPPMAN, Chief Administrative Judge of the Courts of the State of New York; LAUREN DeSOLE, Director of Human Resources, New York State Unified Court System, Office of Court Administration, ANTHONY D'ANGELIS, Chief Clerk, Supreme Court, State of New York, Queens County; ROBERT W. GARDNER, Major of Court Officers, Supreme Court, State of New York; SANDRA NEWSOME, Secretary to Judge, Supreme Court, State of New York; HEIDI HIGGINS, Secretary to Judge, Supreme Court, State of New York; KAREN KOSLOWITZ, Deputy Borough President, County of Queens, City of New York; THOMAS J. MANTON, GERARD J. SWEENEY and MICHAEL H. REICH.

Defendants,

BLOOM, United States Magistrate Judge:

The Honorable Sandra L. Townes has assigned this case to the undersigned for all pretrial purposes. An extra (courtesy) copy of all papers submitted to the Court should be sent to the undersigned at the United States Courthouse, 225 Cadman Plaza East, Room 366, Brooklyn, New York 11201. Enclosed is a copy of the "Individual Practices of Magistrate Judge Lois Bloom." Plaintiff (and defendants) are required to follow them. Plaintiff is to provide a copy of this Order (and the enclosed rules) to defendants along with the summons and complaint.

RECEIVED
COUNSEL'S OFFICE
OFFICE OF CT. ADMIN.

05 APR -5 PM 12:17

Ey B.

Fax

To: Constantine A. Speres
Assistant Attorney General

Fax No.: (212) 416-6075

From: Judith B. Memblatt, Esq.

Date: April 26, 2005

Re: Memblatt v. Rios, et al.

Index No.: 05 CV 1021 (RJD) (LB)

Pages: 3 (including this page)

Comments: The letter included in this transmission concerns defendants Lippman and DeSole.

Judith B. Memblatt, Esq.
98-51 65th Avenue #2A
Rego Park, NY 11374
646-239-2635

VIA FAX AND REGULAR MAIL

April 26, 2005

Constantine A. Speres
Assistant Attorney General
State of New York
Office of the Attorney General
120 Broadway
New York, New York 10271

Re: Memblatt v. Rios, et al.
Case No. 05 CV 1021 (RJD) (LB)

Dear Mr. Speres:

As set forth in my letter to the court dated April 21, 2005, defendants Lippman and DeSole both were served with the summons and complaint, the order of U.S. Magistrate Judge Lois Bloom, dated March 4, 2005, and the individual practices of Magistrate Judge Bloom, at the offices of the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 on April 5, 2005. Service was accepted by Shawn Kirby, Assistant Deputy Counsel, NYS Office of Court Administration ("OCA"). When she accepted service, Ms. Kirby stamped the first page of a copy of the order of Magistrate Judge Bloom and also stamped the back of a copy of the summons. Additional copies were mailed to defendants Lippman and DeSole on April 8, 2005.

Your letter to the court dated April 19, 2005, reflected that defendants Lippman and DeSole had not requested representation from your office as of that date. As shown in Exhibit J to the complaint herein, in a memorandum dated November 6, 2002, defendant Lippman's office reminded the judges and OCA's nonjudicial employees that, if they were served with process and desired representation by the Attorney General's office, they were required by Article 17 of the NYS Public Officers Law to provide the Attorney General's office with copies of the summons and complaint within five days after they were served. Inasmuch as defendants Lippman and DeSole apparently failed to comply with that requirement, it appears that your office will not be representing them. Further, it is clear from your letter that your application for an extension of time to respond to the complaint could only have applied to the other six

defendants referred to therein.

If your office actually does represent defendants Lippman and DeSole, please so inform me in writing within five days of your receipt of this letter in order to avoid possible unnecessary motion practice. If you do not so advise me, I will move for default judgments against them, as permitted by law, in the event that they neither respond to the complaint within the time provided in the summons nor seek any extensions of time to do so.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith B. Memblatt".

Judith B. Memblatt, Esq.
Plaintiff *Pro Se*

c.c. Madaleine S. Egelfeld, Esq.

John E. Quinn, Esq.

HP Officejet 6100 Series 6110
Personal Printer/Fax/Copier/Scanner

Log for
Judith B. Memblatt, Esq.
0000000000
Apr 26 2005 11:33am

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Apr 26	11:32am	Fax Sent	12124166075	0:40	3	OK
